IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2302 OF 2004

Shivaji Anna Jadhav. ... Petitioner

Versus.

Sau.Usha Shivaji Jadhav & others. ... Respondents.

Shri Milind Deshmukh for the Petitioner.

Shri R.Y.Mirza, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 7th June, 2005.

P.C.:

1. This Petition under Article 227 of the Constitution of India is filed by the Petitioner-husband for challenging the order of maintenance passed under section 125 of the Code of Criminal Procedure, 1973 in favour of the Respondent-wife and minor daughter. The learned Magistrate has granted monthly maintenance of Rs.1000/- to the wife and Rs.900/- to the daughter. The order of the learned Magistrate has been confirmed by the learned Sessions Judge in revision.

2. Shri Deshmukh appearing for the Petitioner has invited my attention to the document at page 25 which shows that the Petitioner is getting only a sum of Rs.876/- per month by way of pension. He submitted that by the impugned order, the Petitioner will have to pay Rs.1900/- per month and therefore, interference is called for.

3. The Courts below have found that originally a sum of Rs.1592/- was sanctioned as pension in favour of the Petitioner. By opting for commutition of pension, the Petitioner received a sum of Rs.1,40,000/-. The Courts below have also found that the Petitioner has received retirement gratuity of Rs.49,720/-. On the basis of 7x12 extract on record a finding has been recorded that the Petitioner is holding irrigated land admeasuring more than 1 hectare. In view of the aforesaid findings which are recorded on the basis of the documentary evidence, no interference is called for in this petition under Article 227 of the Constitution of India.

4. Hence the Writ petition is rejected with no order as to costs. If the Petitioner has not complied with the order directing payment of maintenance, time of three weeks is granted to the Petitioner to comply with the said order.

Judge.